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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,364	05/30/2001	Raphael M. Segler	SRQ-100-A	8345

7590 10/05/2006

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EXAMINER

AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/870,364	SEGLER, RAPHAEL M.	
	Examiner	Art Unit	
	Olabode Akintola	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,15,17-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,15,17-21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to applicant's remarks received on 09/18/2006. Claims 1-3, 6-11, 15, 17-21 and 23 are pending. Claims 4-5, 12-14, 16 and 22 have been canceled. Claim 23 is new.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 and 6-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically the claimed invention as a whole does not accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." See *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (*Brenner v. Manson*, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); *In re Ziegler*, 992 F.2d 1197, 1200-03, 26 USPQ2d 1600, 1603-06 (Fed. Cir. 1993)). Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention. Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See *Arrhythmia*, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for

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patenting. However, the mere fact that the claim may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore is non-statutory under 35 U.S.C. § 101. The claimed invention as a whole must produce a “useful, concrete and tangible” result to have a practical application. Independent claim 1 recites a limitation “performing a first and second visits, providing warning”. However, these steps are not concrete and tangible. Specifically, for the aforementioned steps to be concrete, they must have a result that can be substantially repeatable or the steps must substantially produce the same result again. In re Swartz, 232 F.3d 862, 864 (Fed. Cir. 2000) (where asserted result produced by the claimed invention is “irreproducible” claim should be rejected under section 101). It is not clear what the repeatable and predictable result would be by performing a second visit to the customer. Also, with the intent of increasing customer retention, making a second visit does not produce a clear tangible result. Therefore, claimed invention(s) when viewed as a whole fail to produce a tangible and concrete result and therefore is analyzed as non-statutory under 35 U.S.C. 101.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 6-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. Particularly in claim 1, it is not clear how “disconnecting the customer” achieves increasing retention of a customer as recited in the preamble.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 7, 8, 10, 11, 15 and 19- 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akron News Release (hereinafter referred to as Akron) in view of Vermont Public Service Board, Cable Television, Section 8.340- Billing Practices (hereinafter referred to as Vermont).

Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by City of Akron News Release (hereinafter referred to as Akron).

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Re claims 1-3: Akron teaches a method for contacting a non-paying customer of a service provider to increase customer retention, comprising the steps of: an authorized person receiving information from the service provider regarding the customer and amount; performing a first visit to a customer location by the authorized person; if the customer is not present at the customer location, providing a warning to a customer at the time of the first visit; and performing a second visit (Para 5: *"An account will be subject to disconnection notice (currently a yellow door tag)"*: this is interpreted as actual visit to the customer location to hang the yellow door tag); Akron does not teach if the customer is present at the customer location, asking the customer to pay an owed amount; if the customer refuses to pay owed amount, disconnecting the service. Vermont teaches if the customer is present at the customer location, asking the customer to pay an owed amount; if the customer refuses to pay owed amount, disconnecting the service; (Pg 3 of 4, item (F): *When the company representative is at the subscriber's residence and the subscriber pays the amount in arrear in lieu of disconnection*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Akron to include these steps as taught by Vermont to provide the customer a final opportunity to pay up before disconnection. Thus modified Akron hereinafter referred to as "Modified Akron".

Re claims 7: Modified Akron teaches the steps of disconnecting the customer location if the customer does not pay (Vermont: {Pg 3 of 4, item (F)}: *When the company representative is at the subscriber's residence and the subscriber pays the amount in arrear in lieu of disconnection*).

Re claim 8: Modified Akron teaches the steps reconnecting the customer location if the customer pays the owed amount (Akron: {Para 13}: *Payment in full cancels turn off procedure*).

Re Claims 10-11 and 21: Modified Akron teaches that the notice indicates that the customer has been disconnected (Vermont: {Pg 3 of 4, item (C)}: *the company may disconnect the customer, but must leave a written notice explaining why the service was terminated and what must be done to have it restored*).

Re claims 15, 19, and 20: Modified Akron does not explicitly receiving a work order for each customer, each work order including an owed amount and updating a work order for the customer. Official notice is hereby taken that receiving a work order for each customer, each work order including an owed amount and updating a work order for the customer is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Akron to include receiving a work order for each customer, each work order including an owed amount and updating a work order for the customer in order to track and identify delinquent customers.

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Modified Akron in view of Kenny et al. (U.S. Patent Application No. 20020007295) (hereinafter referred to as Kenny).

Re claims 6 and 9: Modified Akron does not explicitly teach collecting any equipment owned by the service provider at the customer location. Kenny teaches collecting any equipment

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owned by the service provider at the customer location ([section 0139]: *The information is used to contact the customer and recover the property if the account becomes delinquent*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Akron to include collecting any equipment owned by the service provider at the customer location as taught by Kenny so that the provider can take possession of his property, for example vehicle repossession due to non-payment of vehicle loan.

Claims 10-11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akron in view of Vermont Public Service Board, Cable Television, Section 8.340- Billing Practices (hereinafter referred to as Vermont).

Re Claims 10-11 and 21: Modified Akron teaches that the notice indicates that the customer has been disconnected (Vermont: {Pg 3 of 4, item (C)}: *the company may disconnect the customer, but must leave a written notice explaining why the service was terminated and what must be done to have it restored*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Akron to include a notice that the customer has been disconnected in so that the customer is aware of such disconnection and why.

Re claim 17: See claim 1 analysis, supra.

Re claim 18: See claim 7 analysis, supra

Re claim 23: See claim 9 analysis, supra

Response to Arguments

Applicant's arguments filed 8/19/2006 have been fully considered but they are not persuasive.

The 35 U.S.C. § 101 rejection is maintained, even though claim 1 satisfies the usefulness aspect of 35 U.S.C. § 101, but the claim fails to satisfy the “concrete and tangible” aspects of 35 U.S.C. § 101.

Applicant argues that Akron sends delinquent notice by mail. Examiner respectfully disagrees. The fact that the Akron discloses that the notice is sent does not necessarily imply that it was sent by mail. The examiner views the yellow door tag as being delivered by a company representative.

Applicant asserts that Vermont does not disclose that at the time the notice is left that the service has been disconnected. Examiner respectfully disagrees. On page 3 of 4, (C), Vermont discloses written notices explaining *why service was terminated*.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



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